

ESTTA Tracking number: **ESTTA687533**

Filing date: **08/04/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Misys Limited
Granted to Date of previous extension	08/05/2015
Address	One Kingdom Street Paddington, London, W2 6BL UNITED KINGDOM
Attorney information	Jessie K. Reider, CA Bar No. 237113 Buchalter Nemer 1000 Wilshire Blvd., Suite 1500 Los Angeles, CA 90017 UNITED STATES trademark@buchalter.com, jreider@buchalter.com

### Applicant Information

Application No	86339112	Publication date	04/07/2015
Opposition Filing Date	08/04/2015	Opposition Period Ends	08/05/2015
Applicant	Nader, Eduardo Aziz Avenida Ceci, nº1850, sala 1 Barueri, Sao Paulo, 106460-12 BRAZIL		


### Goods/Services Affected by Opposition

Class 035. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Business management assistance; commercial or industrial management assistance; direct mail advertising; cost price analysis; dissemination of advertising matter; computerized file management; sales promotion for others; advisory services for business management; updating of advertising material; on-line advertising on a computer network; systemization of information into computer databases; advertising by mail order; systemization of information into computer databases; business information; compilation of statistics
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Consultancy in the field of design, selection, implementation, and use of computer hardware for others; computer system design; research and development of new products for others; computer programming; computer systems analysis; recovery of computer data; maintenance of computer software; graphic arts designing; creating and maintaining web sites for others; hosting of web sites; updating of computer software; data conversion of computer programs and data not physical conversion; duplication of computer programs; providing search engines for the internet


### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3177341	Application Date	07/12/2001
Registration Date	11/28/2006	Foreign Priority Date	NONE
Word Mark	MISYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 2002/01/23 First Use In Commerce: 2002/01/23 COMPUTER SOFTWARE FOR DATABASE MANAGEMENT FOR USE IN THE FIELDS OF FINANCE [, MEDICINE AND HEALTHCARE ]</p> <p>Class 035. First use: First Use: 2002/01/23 First Use In Commerce: 2002/01/23 BUSINESS CONSULTATION; BUSINESS INFORMATION AND RESEARCH IN THE FIELDS OF TELECOMMUNICATIONS; GENERAL INFORMATION CLEARING HOUSES; MANAGEMENT OF TELECOMMUNICATIONS NET- WORKS FOR OTHERS</p> <p>Class 036. First use: First Use: 2002/01/23 First Use In Commerce: 2002/01/23 FINANCIAL INFORMATION IN THE NATURE OF RATES OF EXCHANGE; FINANCIAL MANAGEMENT;FINANCIAL PLANNING; FINANCIAL RE- SEARCH;PROVIDING INFORMATION IN THE FIELD OF BANKING AND FIN- ANCIAL INFORMATION; COMPUTER SERVICES, NAMELY PROVIDING DATABASES IN THE FIELDS OF BANKING, TREASURY, RISKMANAGE- MENT, TRADE FINANCE, DERIVATIVES,TRADING AND ACCOUNTING</p> <p>Class 038. First use: First Use: 2002/01/23 First Use In Commerce: 2002/01/23 TELECOMMUNICATIONS SERVICES, NAMELY TRANSMISSION OF DATA VIA COMPUTER NETWORKS</p> <p>Class 042. First use: First Use: 2002/01/23 First Use In Commerce: 2002/01/23 COMPUTER CONSULTATION; COMPUTER DIAGNOSTIC SERVICES; COM- PUTER PROGRAMMING FOR OTHERS; COMPUTER SOFTWARE DESIGN FOR OTHERS; MAINTENANCE OF COMPUTER SOFTWARE; LEASING COMPUTER FACILITIES; TECHNICAL CONSULTATION AND RESEARCH IN THE FIELD OF TELECOMMUNICATIONS AND INFORMATION TECHNO- LOGY</p>		

U.S. Registration No.	4654679	Application Date	10/10/2012
Registration Date	12/16/2014	Foreign Priority Date	05/22/2012
Word Mark	MISYS		

Design Mark	
Description of Mark	The mark consists of the stylized wording "MISYS" and a circular design with two intersecting ovals inside.
Goods/Services	<p>Class 009. First use: First Use: 0 First Use In Commerce: 0</p> <p>Computers and data processing apparatus; computer software and computer programs for database management for use in the fields of banking, trading, stock broking, investment, financial risk management and/or finance; computer software and computer programmes for conducting financial transactions in relation to banking, trading, stock broking, investment, financial risk management and/or finance, and instructional manuals sold as a unit therewith; computer software for managing financial transactions and evaluating the prices of financial products in the field of banking and financial risk management; computer software for database integration; computer software for creating searchable databases of information and data relating to banking, trading, stock broking, investment and/or finance; computer software to enable database management and the development and hosting of Internet Websites for use in the field of finance and trading; computer software for the sharing of information and to allow the modification thereof in the field of banking and for the creation of interoperability capabilities to enable the connection of banking information systems; computer software that enables the user to provide Web hosting facilities; computer software for use in the development and hosting of Internet Web-sites; computer software to enable network-based alerts; computer software to enable Internet-based alerts; software that allows users to collaborate on projects; apparatus for the processing, recordal, storage, retrieval, transmission, reception, display and printing of data; downloadable electronic publications in the nature of manuals, newsletters, training materials and brochures in the field of banking, trading, stock broking, investment, financial risk management and/or finance; computer software and telecommunications apparatus to enable connection to databases and the Internet; parts and fittings for the aforesaid goods</p> <p>Class 016. First use: First Use: 0 First Use In Commerce: 0</p> <p>Printed matter, namely, manuals, newsletters, training materials and brochures in the field of banking, trading, stock broking, investment, financial risk management and/or finance; manuals in the field of banking, trading, stock broking, investment, financial risk management and/or finance; printed instructional and teaching material in the field of banking, trading, stock broking, investment, financial risk management and/or finance; manuals in the field of data storage and data presentation relating to banking, trading, stock broking, investment, financial risk management and/or finance; computer software manuals for use in relation to e-commerce software and financial software in the fields of banking, trading, stock broking, investment, financial risk management and/or finance</p> <p>Class 036. First use: First Use: 0 First Use In Commerce: 0</p> <p>Financial services, namely, loan financing, financial risk management, trading in securities, stock broking, financial investments and banking, and consultation services related thereto; provision of financial information; electronic compilation and provision of financial information and banking advisory services; providing and processing financial information for others; providing computerised on-line loan financing, financial risk management, trading in securities, stock broking, financial investments and banking, and consultation services related thereto; quotation of stock exchange prices; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications</p>

	<p>Class 038. First use: First Use: 0 First Use In Commerce: 0</p> <p>Telecommunication services, namely, electronic transmission of messages and data; provision of telecommunications information; transmission and distribution of information in the fields of finance, financial risk management, accounting, trading, stock broking, financial investments and banking, and consultation services related thereto via a global computernetwork or the Internet; electronic mail services; portal services, namely, providing access to online content, web-sites and online portals; providing telecommunications connections to the Internet or databases; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications</p> <p>Class 042. First use: First Use: 0 First Use In Commerce: 0</p> <p>Design and development of computer software; computer programming; computer systems and software analysis and consultancy; computer consultancy and technical consultancy in the field of computers; installation and maintenance of computer software and software systems; technical support services, namely, troubleshooting of computer software problems; computer and computer software project management; creating, maintaining and hosting Web sites; application service provider (ASP), namely, hosting computer software applications of others; rental, design, creation and updating of computer software; design, creation and updating of computer databases; computer consultancy services; design and development of computer software in the field of banking, trading, stock broking, accounting, investment and/or finance; provision of technology information relating to computer software and computer systems via a helpline; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications; electronic data storage</p> <p>Class 045. First use: First Use: 0 First Use In Commerce: 0</p> <p>Licensing of computer software in the field of banking, trading, stock broking, accounting, investment and/or finance; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications</p>
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Attachments	<p>76284003#TMSN.png( bytes )</p> <p>79131931#TMSN.png( bytes )</p> <p>MISYS Opposition.pdf(44304 bytes )</p>
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/jkr/
Name	Jessie K. Reider, CA Bar No. 237113
Date	08/04/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial Number 86339112

For the Mark: **MISY**

Published in the *Official Gazette* on April 7, 2015

MISYS LIMITED

Opposer;

v.

EDUARDO AZIZ NADER,

Applicant.

Opposition No.: \_\_\_\_\_

Application: Serial No. 86/339,112

Mark: MISY


Published For Opposition: April 7, 2015

**NOTICE OF OPPOSITION**

Misys Limited, a company organized under the laws of the United Kingdom (“**Opposer**”), believes that it will be damaged by registration on the Principal Register of the captioned mark MISY (“**Applicant’s Mark**”), in the name of Applicant Mr. Eduardo Aziz Nader (“**Applicant**”), and hereby opposes the same. As grounds for opposition, Opposer alleges as follows:

1. Opposer is a company organized and existing under the laws of the United Kingdom, whose registered office is One Kingdom Street, Paddington, London, W2 6BL, United Kingdom.
2. Upon information and belief, Applicant is an individual of Brazil with an address of Avenida Ceci, nº1850, sala 1 Barueri, Sao Paulo, Brazil, 106460-12.

3. Opposer is the exclusive owner of the MISYS marks, and variations thereof, for a wide variety of goods and services including, without limitation, business consulting and computer consulting services (“**Opposer’s Marks**”). Opposer is the owner of the following United States registrations, all of which shall be referred to collectively as “**Opposer’s Registrations**”:

Mark	Serial/Registration Number	Goods/Services
MISYS	3177341	<p>Class 009: Computer software for database management for use in the fields of finance</p> <p>Class 035: Business consultation; business information and research in the fields of telecommunications; general information clearing houses; management of telecommunications networks for others</p> <p>Class 036: Financial information in the nature of rates of exchange; financial management; financial planning; financial research; providing information in the field of banking and financial information; computer services, namely providing databases in the fields of banking, treasury, risk management, trade finance, derivatives, trading and accounting</p> <p>Class 038: Telecommunications services, namely, transmission of data via computer networks</p> <p>Class 042: Computer consultation; computer diagnostic services; computer programming for others; computer software design for others; maintenance of computer software; leasing computer facilities; technical consultation and research in the field of telecommunications and information technology</p>
 MISYS	4654679	<p>Class 009: Computers and data processing apparatus; computer software and computer programs for database management for use in the fields of banking, trading, stock broking, investment, financial risk management and/or finance; computer software and computer programmes for conducting financial transactions in relation to banking, trading, stock broking, investment, financial risk management and/or finance, and instructional manuals sold as a unit therewith; computer software for managing financial transactions and evaluating the prices of financial products in the field of banking and financial risk management; computer software for database integration; computer software for creating searchable databases of information and data relating to banking, trading, stock broking, investment and/or finance; computer software to enable database management and the development and hosting of Internet Websites for use in the field of finance</p>

Mark	Serial/Registration Number	Goods/Services
		<p>and trading; computer software for the sharing of information and to allow the modification thereof in the field of banking and for the creation of interoperability capabilities to enable the connection of banking information systems; computer software that enables the user to provide Web hosting facilities; computer software for use in the development and hosting of Internet Web-sites; computer software to enable network-based alerts; computer software to enable Internet-based alerts; software that allows users to collaborate on projects; apparatus for the processing, recordal, storage, retrieval, transmission, reception, display and printing of data; downloadable electronic publications in the nature of manuals, newsletters, training materials and brochures in the field of banking, trading, stock broking, investment, financial risk management and/or finance. computer software and telecommunications apparatus to enable connection to databases and the Internet; parts and fittings for the aforesaid goods</p> <p>Class 016: Printed matter, namely, manuals, newsletters, training materials and brochures in the field of banking, trading, stock broking, investment, financial risk management and/or finance; manuals in the field of banking, trading, stock broking, investment, financial risk management and/or finance; printed instructional and teaching material in the field of banking, trading, stock broking, investment, financial risk management and/or finance; manuals in the field of data storage and data presentation relating to banking, trading, stock broking, investment, financial risk management and/or finance; computer software manuals for use in relation to e-commerce software and financial software in the fields of banking, trading, stock broking, investment, financial risk management and/or finance</p> <p>Class 036: Financial services, namely, loan financing, financial risk management, trading in securities, stock broking, financial investments and banking, and consultation services related thereto; provision of financial information; electronic compilation and provision of financial information and banking advisory services; providing and processing financial information for others; providing computerised online loan financing, financial risk management, trading in securities, stock broking, financial investments and banking, and consultation services related thereto; quotation of stock exchange prices; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications</p> <p>Class 038: Telecommunication services, namely, electronic transmission of messages and data; provision of telecommunications information; transmission and</p>

Mark	Serial/Registration Number	Goods/Services
		<p>distribution of information in the fields of finance, financial risk management, accounting, trading, stock broking, financial investments and banking, and consultation services related thereto via a global computer network or the Internet; electronic mail services; portal services, namely, providing access to online content, websites and online portals; providing telecommunications connections to the Internet or databases; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications</p> <p>Class 042: Design and development of computer software; computer programming; computer systems and software analysis and consultancy; computer consultancy and technical consultancy in the field of computers; installation and maintenance of computer software and software systems; technical support services, namely, troubleshooting of computer software problems; computer and computer software project management; creating, maintaining and hosting Web sites; application service provider (ASP), namely, hosting computer software applications of others; rental, design, creation and updating of computer software; design, creation and updating of computer databases; computer consultancy services; design and development of computer software in the field of banking, trading, stock broking, accounting, investment and/or finance; provision of technology information relating to computer software and computer systems via a helpline; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications; electronic data storage</p> <p>Class 045: Licensing of computer software in the field of banking, trading, stock broking, accounting, investment and/or finance; information, consultancy and advice in relation to the foregoing services; the provision of the foregoing services and information relating thereto on-line, from a computer database or via any other communications</p>

4. All of Opposer's Registrations are valid and subsisting. Opposer's registration No. 3177341 is incontestable.

5. On information and belief, on or about July 16, 2014, Applicant filed an application, Serial Number 86339112, to register on the Principal Register the mark MISY, in



connection with *Business management assistance; commercial or industrial management assistance; direct mail advertising; cost price analysis; dissemination of advertising matter; computerized file management; sales promotion for others; advisory services for business management; updating of advertising material; on-line advertising on a computer network; systemization of information into computer databases; advertising by mail order; systemization of information into computer databases; business information; compilation of statistics in Class 035 and Consultancy in the field of design, selection, implementation, and use of computer hardware for others; computer system design; research and development of new products for others; computer programming; computer systems analysis; recovery of computer data; maintenance of computer software; graphic arts designing; creating and maintaining web sites for others; hosting of web sites; updating of computer software; data conversion of computer programs and data not physical conversion; duplication of computer programs; providing search engines for the internet in Class 042 (the “**Application**”).*

6. Opposer timely filed an Extension of Time to Oppose the Application with the Trademark Trial and Appeal Board on April 29, 2015 and the Extension request was granted. An opposition to the Application must be filed by August 5, 2015. Therefore, this Notice of Opposition is being timely filed.

7. Opposer has rights in and to Opposer’s Marks long prior to the first actual or constructive use of Applicant’s Mark.

8. Applicant’s Mark so resembles Opposer’s Marks as to be likely, when used on or in connection with Applicant’s goods, to cause confusion, to cause mistake, or to deceive in violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d), as amended. Applicant’s Mark also conveys the same commercial impression to Opposer’s Marks.

9. The services in the Application are similar and related to the services used in connection with Opposer's Marks. Applicant's use and registration of the MISY mark in connection with its services is likely to cause confusion, deception and/or mistake among the relevant public.

10. Applicant's use and registration of the MISY mark is likely to falsely suggest a connection with Opposer and Opposer's Marks. The purchasing public is likely to be led to believe that goods bearing Applicant's Mark emanate from or are approved, licensed or sponsored by Opposer or that Applicant and its business are owned by or are affiliated with Opposer and its business.

11. If Applicant is permitted to use Applicant's Mark as specified in the Application, confusion in trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between Applicant's Mark and Opposer's Marks. Consumers familiar with Opposer's Marks would be likely to believe Applicant's services are provided by Opposer or provided with Opposer's authorization or approval. Any such confusion would inevitably result in lost sales for Opposer. Furthermore, any defect, objection or fault found with Applicant's services marketed under Applicant's Mark would necessarily injure Opposer's reputation and the goodwill Opposer has established in Opposer's Marks.

12. Opposer believes it will be damaged by registration of Applicant's Mark because such registration would give Applicant at least a *prima facie* exclusive right to use Applicant's Mark in commerce in the United States, in derogation of Opposer's senior rights in Opposer's Marks.

13. Applicant's use and registration of Applicant's Mark will damage Opposer, its business and its goodwill.

WHEREFORE, Opposer believes and avers that it will be damaged by the registration of Applicant's Mark, MISY, and prays for judgment sustaining this opposition and refusing the registration of the Application, and that such other and further relief as is deemed just and proper be granted.

The requisite filing fee prescribed by 37 C.F.R. §2.6(a)(17), in the amount of \$600.00 should be charged to Deposit Account No. 500977. If there are any additional fees due in connection with this Notice of Opposition, they should also be charged to Deposit Account No. 500977, and any excess fees should be credited to the same. All correspondence relating to this matter should be directed to the undersigned attorney for Opposer.

Respectfully submitted,

BUCHALTER NEMER,  
A Professional Corporation

Date: August 4, 2015

By: /jkr/

Jessie K. Reider

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trademark@buchalter.com

Attorneys for Opposer

MISYS LIMITED

### Proof of Service

I hereby certify that a true and correct copy of the instant **Notice of Opposition** has been served on the Applicant, Mr. Eduardo Aziz Nader, at the address of record for the instant proceeding, and a courtesy copy has been served on the Applicant's attorney of record.

A copy of the instant Notice of Opposition was sent via First Class mail, postage prepaid, on August 4, 2015 to:

Mr. Eduardo Aziz Nader

Avenida Ceci, nº1850, sala 1 Barueri

Sao Paulo BRAZIL 106460-12

By:           /jkr/          

Jessie K. Reider